

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK**

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EMPIRE STATE CARPENTERS WELFARE,
PENSION, and ANNUITY FUNDS, and their
TRUSTEES DALE STUHL MILLER, TODD
HELFRICH, PATRICK MORIN, DOUG
O'CONNER, JOHN O'HARE, JOHN DELOLLIS,
CHRIS FUSCO, ALAN EHL, WILLIAM
MACCHIONE, WILLIAM BANFIELD, JAMES
MALCOLM, STANLEY TURTENWALD, ROSS
PEPE, ALAN SEIDMAN, LLOYD MARTIN,
LARRY THAYER, WILLIAM WEIR, DAVID
HAINES, FRANK WIRT, TOM BURKE, JAMES
LOGAN, FRANK JONES, AARON HILGER,
ANGELO MASSARO, JAMES HOLLEY,

Plaintiffs,

-against-

MIKE & MIKE CUSTOM CARPENTRY,

Defendant.

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APPEARANCES:

Levy Ratner P.C.

Attorneys for the Plaintiffs
80 Eighth Avenue, 8th Floor
New York, NY 10011-5126

By: Owen M. Rumelt, Esq.

NO APPEARANCES:

MIKE & MIKE CUSTOM CARPENTRY

SPATT, District Judge.

The plaintiffs commenced this case on March 15, 2010 against Mike & Mike Custom Carpentry ("Mike & Mike"), asserting claims for breach of contract in violation of the Employees Retirement Income Security Act of 1974, 29 U.S.C. § 1001, et seq. ("ERISA") and the Labor

ORDER

10-CV-1167 (ADS)(WDW)

Management Relations Act of 1974, 29 U.S.C. § 141, et seq. (“LMRA”). On September 10, 2010, the Court referred this matter to United States Magistrate William D. Wall, for a report and recommendation as to the amount of damages, attorneys’ fees, and costs to be awarded following the entry of a default judgment against Mike & Mike. On January 31, 2011, Judge Wall issued a Report recommending that the Court: (1) issue an order directing Mike & Mike to permit and cooperate in the audit of its books and records and provide the plaintiffs with information, books, records and reports in accordance with ERISA and the collective bargaining agreement between the parties; (2) award attorney’s fees in the amount of \$1,800.50; and (3) award costs in the amount of \$390.00. To date, there have been no objections filed to the Report.

In reviewing a report and recommendation, a court “may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge.” 28 U.S.C. §636(b)(1)(C). “To accept the report and recommendation of a magistrate, to which no timely objection has been made, a district court need only satisfy itself that there is no clear error on the face of the record.” Wilds v. United Parcel Serv., 262 F. Supp. 2d 163, 169 (S.D.N.Y. 2003) (citing Nelson v. Smith, 618 F. Supp. 1186, 1189 (S.D.N.Y. 1985)). The Court has reviewed Judge Wall’s Report and finds it be persuasive and without any legal or factual errors. There being no objection to Judge Wall’s Report, it is hereby:

ORDERED, that Judge Wall’s Report and Recommendation is adopted in its entirety. The Court directs Mike & Mike Custom Carpentry within thirty days of the date of this order to permit and cooperate in the audit of its books and records and provide the plaintiffs with information, books, records and reports in accordance with ERISA and the collective bargaining agreement between the parties. In addition, the Court awards attorneys fees in the amount of \$1,800.50 and costs in the amount of \$390.00,

ORDERED, that the Clerk of the Court shall enter a judgment for the plaintiffs in the total amount of \$2,190.50, and it is further

ORDERED, that the Clerk of the Court is directed to close this case.

SO ORDERED.

Dated: Central Islip, New York
March 10, 2011

/s/ Arthur D. Spatt
ARTHUR D. SPATT
United States District Judge